APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,476	10/08/2003	Ron Hyman Rothman	10-366-US (cbs020000)	7476

98804   7590   12/08/2010
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EXAMINER
FABER, DAVID

ART UNIT	PAPER NUMBER
2178	

NOTIFICATION DATE	DELIVERY MODE
12/08/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptoipinbox@reedsmith.com
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	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/681,476	ROTHMAN ET AL.
	Examiner	Art Unit
	DAVID FABER	2178

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>12 November 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1,2,5-10,13-20,22-27,29-36,39-44 and 47-64</u>.

   Claim(s) withdrawn from consideration: <u>65</u>.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/Stephen S. Hong/
Supervisory Patent Examiner, Art Unit 2178

Continuation of 11. does NOT place the application in condition for allowance because:

1)The recent filing of the claims contains incorrect status identifiers and missing markings to indicate new limitations. MPEP 714, Section C (A) states the current status of all claims in the application must be given. In addition, MPEP, 714(c)(2) states "When claim text with markings is required. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text" Therefore, claim 41 of the amendment filed 11/12/2010 was not properly labeled. This claim has been treated as the status identifier of "currently amended". If this is not correct, applicants should notify the USPTO with a corrected amendment. Any future correspondence must contain the proper status identifiers.

2)   On pages 20-21, in regards to the independent claims, Applicant argues that Heene's Provisional fails to provide written description support for the portions of Heene relied on in the previous Office action. In other words, Applicant argues that Heene's provisional fails to disclose a system for ads that disclose including both non-proprietary and proprietary information from the server-side system; therefore, failing 35 USC 112, first paragraph, because the cited portions of Heene's nonprovisional and Heene's provisional. Because of this, Applicant argues Heene cannot be used as prior art and requests removal of the claims involving Heene. However, the Examiner disagrees.
        Based on the claim language of the claim limitation, claim language of the limitation fails to specifically what is discloses as proprietary or non- proprietary data from the server-side system. Therefore, the Examiner must take view of the broadest interpretation of what as proprietary or non- proprietary data is based on the language of the claim limitation. Nonetheless, Heene's provisional discloses the facilitating the sale of newspaper classified items using the Internet. (page 1, footnote) It is implicitly known that the internet is a server-side system made up of a network of servers wherein a user uses a browser on a client computer, thus client-side, that connects to Internet. Page 1 under Brief Summary of FIG 3 and FIG 3 discloses an example of viewing a periodicals online classified website containing a listing of advertisements containing classified ad product information and other data. It is implicitly known that website data is stored on server-side and is transferred to the client side when the client requests the website data from the server side. Heene's provisional discloses that classified data are obtained (sourced by a periodical) and transferred to the e-commerce (online web site) system. (page 1, last paragraph - page 2, first paragraph) FIG 1 shows the use of an online classified ad database. Furthermore, Heene's e-commerce system creates an online advertisement from the obtained classified ad product information and adds other data to it. This include adding icons, text that specifying where the classified ad product information may be found and purchase, hyperlinks linking to the product's page disclosing more detail. (page 2, paragraphs 2-4) Thus, Heene's provisional discloses the creation of an online ad containing classified ad data (proprietary) and other data (non-proprietary). Furthermore, as stated, Heene's provisional discloses a website, stored on the Internet, thus server-side, containing online ad that comprises the both kinds of data that a user can access through a browser on the client, thus client side. Therefore, Heene's provisional discloses the ability to provide ads containing proprietary or non- proprietary data from the server-side system.